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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,855	06/20/2001	David Alexander Learmonth	AAT-12563	4106

7590 05/19/2003
Rankin, Hill, Porter & Clark LLP
Suite 700
925 Euclid Avenue
Cleveland, OH 44115

EXAMINER

FORD, JOHN M

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 05/19/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. <u>09/885255</u>	Applicant(s) <u>Learmonth et al</u>
Examiner <u>JM Ford</u>	Group Art Unit <u>1624</u>

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on March 24, 2003
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 3, 5-7 and 9-57 is/are pending in the application.
- Of the above claim(s) 32-45, 48, 49 and 50 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 3, 5, 6, 7 and 9 is/are rejected.
- ☒ Claim(s) 10-31, 46 and 47 and 51-57 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

☒ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1624

Applicants response of March 24, 2003, is noted.

The claims in the application are claims 1, 3, 5--7 and 9--57.

Claims 6, 7 and 9 are rejected under 35 U.S.C. 103. The method of mixing to make a composition is old since the ~~time~~ of Alchemists working in caves. See Remington's Practice of Pharmacy.

37 CFR 1.145 prohibits changing the subject matter once there was an action on the merits. The was no heterocyclic group in claim as filed. Applicants have add^{ed} not one instance of a heterocyclic group in the present claim 1, but two such instances.

37 CFR 1.145 requires the claims be returned to the scope originally filed and searched.'

Claim 1 is rejected under 35 U.S.C. 112, 1st paragraph. The genus now provided has no antecedent basis in the specification as filed. See top of page 4 of the specification.

Claims 3. and 5 are rejected as being dependent on a rejected claim.

Claims 10--31, 46, 47, 51, and 52-57 are objected to as allowable, but dependent on a rejected claim.

Claims 32--45, 48, 49, 50 are directed to heterocyclic instances, not properly before us.


Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Art Unit: 1624

Claim 1 is rejected under 35 U.S.C. 112, 1st paragraph. There are several instances of "at least one" in the claim. This opens the claim to further unknown. One or more -- is suggested in lieu of "at least one".

John M. Ford:jmr

May 14, 2003

A handwritten signature in cursive script, appearing to read "J M Ford".

JOHN M. FORD
PRIMARY EXAMINER

A handwritten signature in cursive script, appearing to read "Greg Ad Unit 1624".